

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

DMITRI SIMONS,

Plaintiff,

v.

COSTCO WHOLESALE CORPORATION,

Defendant.

Case No. 3:18-cv-755-SB

ORDER

James Mills, LAW OFFICE OF JAMES MILLS, 707 SW Washington Street, Suite 1100, Portland, OR 97205. Of Attorneys for Plaintiff.

Ryan Kunkel, Dexter J. Pearce, and Laura E. Rosenbaum, STOEL RIVES LLP, 760 SW Ninth Avenue, Suite 3000, Portland, OR 97205. Of Attorneys for Defendant.

Michael H. Simon, District Judge.

United States Magistrate Judge Stacie F. Beckerman issued Findings and Recommendation in this case on November 16, 2020. ECF 65. Judge Beckerman recommended that the Court grant the motion for summary judgment filed by Defendant Costco Wholesale Corporation (Costco). No party has filed an objection.

Under the Federal Magistrates Act (“Act”), the court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). If a party files an objection to a magistrate judge’s findings and recommendations,

“the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

If no party objects, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”); *United States. v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review *de novo* magistrate judge’s findings and recommendations if objection is made, “but not otherwise”).

Although review is not required in the absence of objections, the Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the court review the magistrate judge’s findings and recommendations for “clear error on the face of the record.”

No party having made an objection, this Court follows the recommendation of the Advisory Committee and reviews Judge Beckerman’s Findings and Recommendation for clear error on the face of the record. No such error is apparent. Accordingly, the Court **ADOPTS** Judge Beckerman’s Findings and Recommendation, ECF 65. The Court **GRANTS** Costco’s Motion for Summary Judgment, ECF 53.

IT IS SO ORDERED.

DATED this 9th day of December, 2020.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge